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No. 348

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In the Supreme Court of the United States

OCTOBER TERM, 1941

THE SEMINOLE NATION, PETITIONER

v.

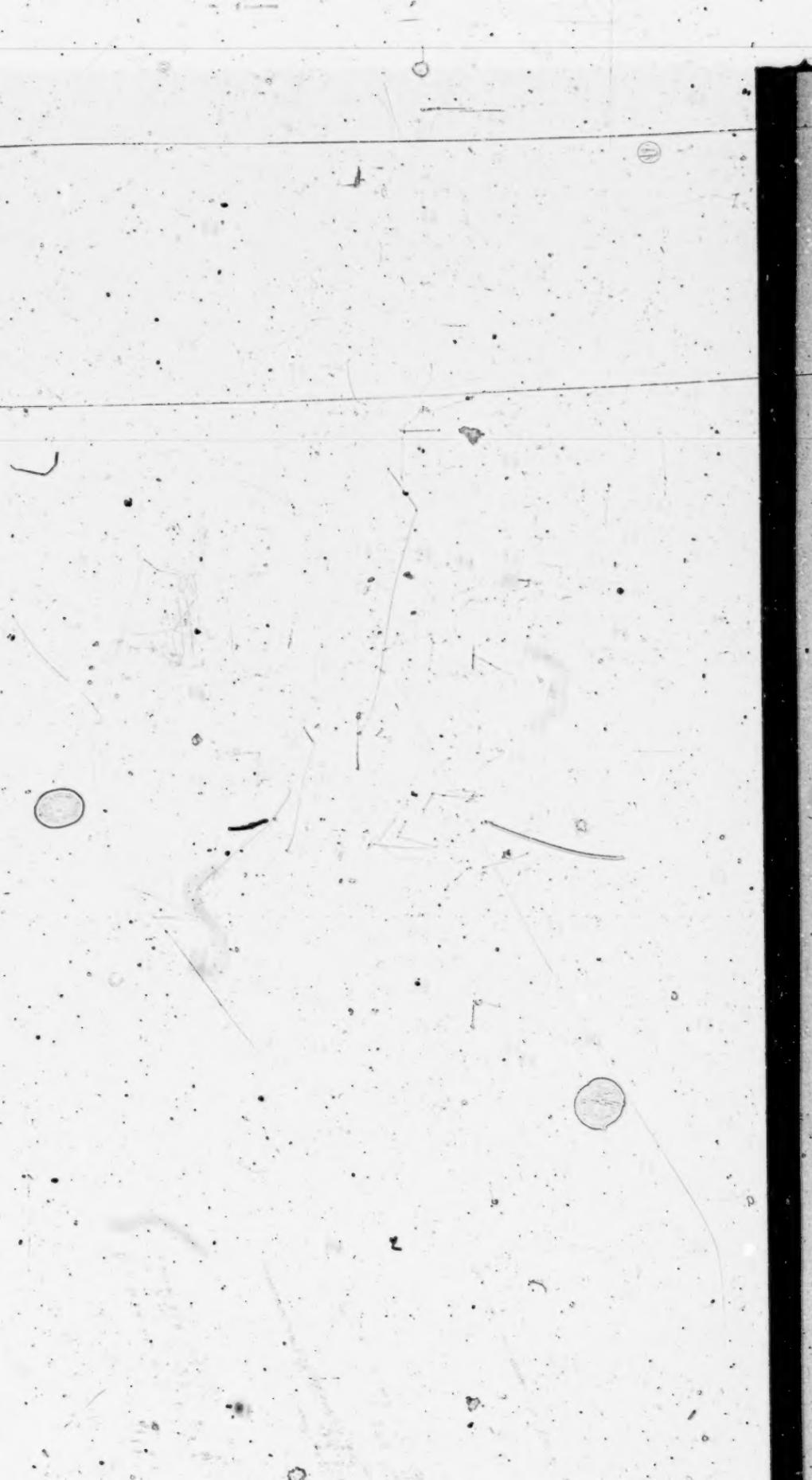
THE UNITED STATES

ON WRIT OF CERTIORARI TO THE COURT OF CLAIMS

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APPENDIX TO BRIEF FOR THE UNITED STATES

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## PART I. TREATIES AND STATUTES

TREATY OF AUGUST 7, 1856, BETWEEN THE UNITED STATES AND THE CREEK AND SEMINOLE TRIBES OF INDIANS, 11 STAT. 699, 700-702.

Whereas the convention heretofore existing between the Creek and Seminole tribes of Indians west of the Mississippi River, has given rise to unhappy and injurious dissensions and controversies among them, which render necessary a readjustment of their relations to each other and to the United States; and whereas the United States desire, by providing the Seminoles remaining in Florida with a comfortable home west of the Mississippi River, and by making a liberal and generous provision for their welfare, to induce them to emigrate and become one people with their brethren already west, and also to afford to all the Seminoles the means of education and civilization, and the blessings of a regular civil government; and whereas, the Creek nation and individuals thereof, have, by their delegation, brought forward and persistently urged various claims against the United States, which it is desirable shall be finally adjusted and settled; and whereas it is necessary for the simplification and better understanding of the relations between the United States and said Creek and Seminole tribes of Indians, that all their subsisting treaty stipulations shall, as far as practicable, be embodied in one comprehensive instru-

ment; now therefore, the United States, by their commissioner, George W. Manypenny, the Creek tribe of Indians, by their commissioners, Tuck-a-batchee-Micco, Echo-Harjo, Chilly McIntosh, Benjamin Marshall, George W. Stidham, and Daniel N. McIntosh; and the Seminole tribe of Indians, by their commissioners, John Jumper, Tuste-nuc-o-chee, Pars-co-fer, and James Factor, do hereby agree and stipulate as follows, viz:

ARTICLE I. The Creek Nation doth hereby grant, cede, and convey to the Seminole Indians, the tract of country included within the following boundaries, viz: beginning on the Canadian River, a few miles east of the ninety-seventh parallel of west longitude where Ock-hi-appo, or Pond Creek, empties into the same; thence, due north to the north fork of the Canadian; thence, up said north fork of the Canadian to the southern line of the Cherokee country; thence, with that line, west, to the one hundredth parallel of west longitude; thence, south along said parallel of longitude to the Canadian River, and thence down and with that river to the place of beginning.

ARTICLE V. The Creek Indians do hereby, absolutely and forever, quitclaim and relinquish to the United States all their right, title, and interest in and to any lands heretofore owned or claimed by them, whether east or west of the Mississippi River, and any and all claim for or on account of any such lands, except those embraced within the boundaries described in the second article of this agreement; and it doth also, in like manner, release and fully discharge the United States from all

other claims and demands whatsoever, which the Creek Nation or any individuals thereof may now have against the United States, excepting only such as are particularly or in terms provided for and secured to them by the provisions of existing treaties and laws; and which are as follows, viz: permanent annuities in money amounting to twenty-four thousand five hundred dollars, secured to them by the fourth article of the treaty of seventh August, seventeen hundred and ninety, the second article of the treaty of June sixteenth, eighteen hundred and two, and the fourth article of the treaty of January twenty-fourth, eighteen hundred and twenty-six; permanent provision for a wheelwright, for a blacksmith and assistant; blacksmith shop and tools, and for iron and steel under the eighth article of the last-mentioned treaty; and costing annually one thousand seven hundred and ten dollars; two thousand dollars per annum, during the pleasure of the President, for assistance in agricultural operations under the same treaty and article; six thousand dollars per annum for education for seven years, in addition to the estimate for present fiscal year, under the fourth article of the treaty of January fourth, eighteen hundred and forty-five; one thousand dollars per annum during the pleasure of the President, for the same object, under the fifth article of the treaty of February fourteenth, eighteen hundred and thirty-three; services of a wagon maker, blacksmith and assistant, shop and tools, iron and steel, during the pleasure of the President, under the same treaty and article, and costing one thousand seven hundred and ten dollars annually; the last instalment of two thousand two hundred and twenty dollars

for two blacksmiths and assistants, shops and tools, and iron and steel, under the thirteenth article of the treaty of March twenty-fourth, eighteen hundred and thirty-two, and which last it is hereby stipulated shall be continued for seven additional years.

**ARTICLE VIII.** The Seminoles hereby release and discharge the United States from all claims and demands which their delegation have set up against them, and obligate themselves to remove to and settle in the new country herein provided for them as soon as practicable. In consideration of such release, discharge, and obligation, and as the Indians must abandon their present improvements, and incur considerable expense in reestablishing themselves, and as the government desires to secure their assistance in inducing their brethren yet in Florida to emigrate and settle with them west of the Mississippi River, and is willing to offer liberal inducements to the latter peaceably so to do, the United States do therefore agree and stipulate as follows, viz: To pay to the Seminoles now west, the sum of sixty<sup>1</sup> thousand dollars, which shall be in lieu of their present improvements, and in full for the expenses of their removal and establishing themselves in their new country; to provide annually for ten years the sum of three thousand dollars for the support of schools; two thousand dollars for agricultural assistance; and two thousand two hundred dollars for the support of smiths and smith shops among them, said sums

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<sup>1</sup> See Amendment, substituting ninety for sixty, *post*, p. 706.

to be applied to these objects in such manner as the President shall direct. Also to invest for them the sum of two hundred and fifty thousand dollars, at five percent. per annum, the interest to be regularly paid over to them *per capita* as annuity; the further sum of two hundred and fifty thousand dollars shall be invested in like manner whenever the Seminoles now remaining in Florida shall have emigrated and joined their brethren in the west, whereupon the two sums so invested, shall constitute a fund belonging to the united tribe of Seminoles, and the interest on which, at the rate aforesaid, shall be annually paid over to them *per capita* as an annuity; but no portion of the principal thus invested, or the interest thereon annually due and payable, shall ever be taken to pay claims or demands against said Indians, except such as may hereafter arise under the intercourse laws.

**RESOLUTION OF FEBRUARY 22, 1862, NO. 13,**  
**12 STAT. 614**

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Secretary of the Interior be authorized to pay out of the annuities payable to the Seminoles, Creeks, Choctaws, and Chickasaws, and which have not been paid, in consequence of the cessation of intercourse with those tribes, so much of the same as may be necessary to be applied to the relief of such portions of said tribes as have remained loyal to the United States, and have been

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<sup>2</sup> Amended by the Act of April 15, 1874, 18 Stat. 29 (pp. 16-17, *infra*) and the Act of the Seminole legislature dated April 2, 1879 (pp. 43-44, *infra*.)

or may be driven from their homes in the Indian Territory into the State of Kansas or elsewhere.

INDIAN APPROPRIATION ACT FOR THE FISCAL YEAR 1863,  
ACT OF JULY 5, 1862, C. 135, 12 STAT. 512, 528

For defraying the expenses of the removal and subsistence of Indians in Oregon and Washington Territory (not parties to any treaty) and for pay of necessary employees, fifty thousand dollars: *Provided*, That all appropriations heretofore or hereafter made to carry into effect treaty stipulations, or otherwise, in behalf of any tribe or tribes of Indians, all or any portion of whom shall be in a state of actual hostility to the government of the United States, including the Cherokees, Creeks, Choctaws, Chickasaws, Seminoles, Wichitas, and other affiliated tribes, may and shall be suspended and postponed wholly or in part at and during the discretion and pleasure of the President: *Provided, further*, That the President is authorized to expend such part of the amount heretofore appropriated and not expended and hereinbefore appropriated for the benefit of the tribes named in the preceding proviso as he may deem necessary, for the relief and support of such individual members of said tribes as have been driven from their homes and reduced to want on account of their friendship to the government. And an account shall be kept of the sums so paid for the benefit of such tribe, which account shall be rendered to Congress at the commencement of the next session thereof. And all purchases of articles for the purposes above set forth, shall be made on advertisement, as provided in other cases, and an account shall be rendered of

all such purchases, with a statement of the prices paid therefor: *And provided, further,* That in cases where the tribal organization of any Indian tribe shall be in actual hostility to the United States, the President is hereby authorized, by proclamation, to declare all treaties with such tribe to be abrogated by such tribe, if, in his opinion, the same can be done consistently with good faith and legal and national obligations.

INDIAN APPROPRIATION ACT FOR THE FISCAL YEAR 1864,  
ACT OF MARCH 3, 1863, C. 99, 12 STAT. 774, 793.

SEC. 3. *And be it further enacted,* That the Secretary of the Interior be, and he is hereby authorized to expend such part of the amount heretofore appropriated to carry into effect any treaty stipulation with any tribe or tribes of Indians, all, or any portion of whom shall be in a state of actual hostility to the Government of the United States, including the Cherokees, Creeks, Choctaws, Chickasaws, Seminoles, Wichitas, and other affiliated tribes, as may be found necessary to enable such individual members of said tribes as have been driven from their homes, and reduced to want on account of their friendship to the United States, to subsist until they can be removed to their homes, and to assist them in such removal: *Provided,* That an account shall be kept of the sums so paid for the benefit of the said members of said tribes, which account shall be rendered to Congress at the commencement of the next session thereof. And all purchases of articles for the purposes above set forth shall be made of the lowest responsible bidder, after sufficient public notice by advertisement

in appropriate newspapers: *Provided, also,* That the said Secretary shall not be required/to accept any bid which is in his judgment unreasonable in its character.

INDIAN APPROPRIATION ACT FOR THE FISCAL YEAR 1865,

ACT OF JUNE 25, 1864, C. 148, 13 STAT. 161, 180

SEC. 2. *And be it further enacted,* That the Secretary of the Interior be, and he is hereby, authorized to expend such part of the amount herein appropriated to carry into effect any treaty stipulation with any tribe or tribes of Indians, all, or any portion of whom, shall be in a state of actual hostility to the government of the United States, including the Creeks, Choctaws, Chickasaws, Seminoles, Wichitas, and other affiliated tribes, as well as the Cherokees, as may be found necessary to support such individual members of said tribes as have been driven from their homes or reduced to want on account of their friendship to the United States, and enable them to subsist until they can support themselves in their own country: *Provided,* That an account shall be kept of the sums so paid for the benefit of the said members of said tribes, which account shall be rendered to congress at the commencement of the next session thereof. And all purchases of articles for the purposes above set forth shall be made of the lowest responsible bidder, after sufficient public notice by advertisement in appropriate newspapers: *Provided, also,* That the said secretary shall not be required to accept any bid which is in his judgment unreasonable in its character: *Provided, further,* That no part of said annuities shall be expended for In-

dians outside of the Indian Territory south of Kansas, except in providing for such individual Indians or families as are sick and unable to remove to that territory, or such as may be driven out of that territory by armed rebels, after the passage of this act.

INDIAN APPROPRIATION ACT FOR THE FISCAL YEAR 1866,  
ACT OF MARCH 3, 1865, C. 127, 13 STAT. 541, 562

SEC. 5. *And be it further enacted,* That the Secretary of the Interior be, and he is hereby, authorized to expend such part of the amount herein appropriated to carry into effect any treaty stipulation with any tribe or tribes of Indians, all or any portion of whom shall be in a state of actual hostility to the government of the United States, including the Creeks, Choctaws, Chickasaws, Seminoles, Wichitas, and other affiliated tribes, as well as the Cherokees, as may be found necessary to support such individual members of said tribes as have been driven from their homes or reduced to want on account of their friendship to the United States, and enable them to subsist until they can support themselves in their own country: *Provided*, That an account shall be kept of the sums so paid for the benefit of the said members of said tribes, which account shall be rendered to congress, at the commencement of the next session thereof, and all the purchases of articles for the purposes above set forth, shall be made of the lowest responsible bidder after sufficient public notice by advertisement in appropriate newspapers: *Provided*, also, That the said Secretary shall not be required to accept any bid which is in his judgment unrea-

sonable in its character: *Provided, further,* That no part of said annuities shall be expended for Indians outside of the Indian Territory south of Kansas, except in providing for such individual Indians or families as are sick and unable to remove to that territory, or such as may be driven out of that territory by armed rebels, after the passage of this act.

TREATY OF MARCH 21, 1866, BETWEEN THE UNITED STATES AND THE SEMINOLE NATION, 14 STAT. 755,

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PREAMBLE.

Whereas existing treaties between the United States and the Seminole nation are insufficient to meet their mutual necessities; and whereas the Seminole nation made a treaty with the so-called confederate states, August 1st, 1861, whereby they threw off their allegiance to the United States, and unsettled their treaty relations with the United States, and thereby incurred the liability of forfeiture of all lands and other property held by grant or gift of the United States; and whereas a treaty of peace and amity was entered into between the United States and the Seminole and other tribes at Fort Smith, September 10, 1865, whereby the Seminoles revoked, cancelled, and repudiated the said treaty with the so-called confederate states; and whereas the United States, through its commissioners, in said treaty of peace, promised to enter into treaty with the Seminole nation to arrange and settle all questions relating to and growing out of said treaty with the so-called confederate states; and whereas the United States, in view of said treaty of the Seminole nation with the enemies

of the government of the United States, and the consequent liabilities of said Seminole nation, and in view of its urgent necessities for more lands in the Indian territory, requires a cession by said Seminole nation of a part of its present reservation, and is willing to pay therefor a reasonable price, while at the same time providing new and adequate lands for them.

Now, therefore, the United States, by its commissioners aforesaid, and the above-named delegates of the Seminole nation, the day and year above written, mutually stipulate and agree, on behalf of the respective parties, as follows, to wit:

\* \* \* \* \*

**ARTICLE III.** In compliance with the desire of the United States to locate other Indians and freedmen thereon, the Seminoles cede and convey to the United States their entire domain, being the tract of land ceded to the Seminole Indians by the Creek nation under the provisions of article first (1st), treaty of the United States with the Creeks and Seminoles, made and concluded at Washington, D. C., August 7, 1856. In consideration of said grant and cession of their lands, estimated at two million one hundred and sixty-nine thousand and eighty (2,169,080) acres, the United States agree to pay said Seminole nation the sum of three hundred and twenty-five thousand three hundred and sixty-two (\$325,362) dollars, said purchase being at the rate of fifteen cents per acre. The United States having obtained by grant of the Creek nation the westerly half of their lands, hereby grant to the Seminole nation the portion thereof hereafter described, which shall constitute the na-

tional domain of the Seminole Indians. Said lands so granted by the United States to the Seminole nation are bounded and described as follows, to wit: Beginning on the Canadian river where the line dividing the Creek lands according to the terms of their sale to the United States by their treaty of February 6, 1866, following said line due north to where said line crosses the north fork of the Canadian river; thence up said north fork of the Canadian river a distance sufficient to make two hundred thousand acres by running due south to the Canadian river; thence down said Canadian river to the place of beginning. In consideration of said cession of two hundred thousand acres of land described above, the Seminole nation agrees to pay therefor the price of fifty cents per acre, amounting to the sum of one hundred thousand dollars, which amount shall be deducted from the sum paid by the United States for Seminole lands under the stipulations above written. The balance due the Seminole nation after making said deduction, amounting to one hundred thousand dollars, the United States agree to pay in the following manner, to wit: Thirty thousand dollars shall be paid to enable the Seminoles to occupy, restore, and improve their farms, and to make their nation independent and self-sustaining, and shall be distributed for that purpose under the direction of the Secretary of the Interior; twenty thousand dollars shall be paid in like manner for the purpose of purchasing agricultural implements, seeds, cows, and other stock; fifteen thousand dollars shall be paid for the erection of a mill suitable to accommodate said nation of Indians; seventy thousand dollars to remain in the United States treasury,

upon which the United States shall pay an annual interest of five percent; fifty thousand of said sum of seventy thousand dollars shall be a permanent school fund, the interest of which shall be paid annually and appropriated to the support of schools; the remainder of the seventy thousand dollars, being twenty thousand dollars, shall remain a permanent fund, the interest of which shall be paid annually for the support of the Seminole government; forty thousand three hundred and sixty-two dollars shall be appropriated and expended for subsisting said Indians, discriminating in favor of the destitute; all of which amounts, excepting the seventy thousand dollars, to remain in the treasury as a permanent fund, shall be paid upon the ratification of said treaty, and disbursed in such manner as the Secretary of the Interior may direct. The balance, fifty thousand dollars, or so much thereof as may be necessary to pay the losses ascertained and awarded as hereinafter provided, shall be paid when said awards shall have been duly made and approved by the Secretary of the Interior. And in case said fifty thousand dollars shall be insufficient to pay all said awards, it shall be distributed pro rata to those whose claims are so allowed; and until said awards shall be thus paid, the United States agree to pay to said Indians, in such manner and for such purposes as the Secretary of the Interior may direct, interest at the rate of five per cent per annum from the date of the ratification of this treaty.

\* \* \* \* \*

ARTICLE VI. Inasmuch as there are no agency buildings upon the new Seminole reservation, it is

therefore further agreed that the United States shall cause to be constructed, at an expense not exceeding ten thousand (\$10,000) dollars, suitable agency buildings, the site whereof shall be selected by the agent of said tribe, under the direction of the superintendent of Indian affairs; in consideration whereof, the Seminole nation hereby relinquish and cede forever to the United States one section of their lands, upon which said agency buildings shall be *directed* [erected], which land shall revert to said nation when no longer used by the United States, upon said nation paying a fair value for said buildings at the time vacated.

\* \* \* \* \*

**ARTICLE VIII.** The stipulations of this treaty are to be a full settlement of all claims of said Seminole nation for damages and losses of every kind growing out of the late rebellion, and all expenditures by the United States of annuities in clothing and feeding refugee and destitute Indians since the diversion of annuities for that purpose, consequent upon the late war with the so-called confederate states. And the Seminoles hereby ratify and confirm all such diversions of annuities heretofore made from the funds of the Seminole nation by the United States. And the United States agree that no annuities shall be diverted from the objects for which they were originally devoted by treaty stipulations with the Seminoles, to the use of refugee and destitute Indians, other than the Seminoles or members of the Seminole nation, after the close of the present fiscal year, June thirtieth, eighteen hundred and sixty-six.

**ARTICLE IX.** The United States reaffirms and reassumes all obligations of treaty stipulations en-

tered into before the treaty of said Seminole nation with the so-called confederate states, August first, eighteen hundred and sixty-one, not inconsistent herewith; and further agree to renew all payments of annuities accruing by force of said treaty stipulations, from and after the close of the present fiscal year, June thirtieth, in the year of our Lord one thousand eight hundred and sixty-six, except as is provided in article eight (viii).

**ACT OF MARCH 3, 1873, C. 322, 17 STAT. 626**

*To authorize the Secretary of the Interior to negotiate with the Creek Indians for the Cession of a Portion of their Reservation, occupied by friendly Indians*

Whereas by the third article of the treaty concluded with the Creek Indians June fourteenth, eighteen hundred and sixty-six, said Indians ceded to the United States, for the settlement of friendly Indians and freedmen, the west half of their entire domain, to be divided by a line running north and south; and whereas the recent survey of said line, made in conformity with the provisions of said treaty, includes within the limits of the Creek reservation, east of said line, some of the improvements made on a reservation selected on what was supposed to be the Creek ceded lands, for the Seminole tribe of Indians, which reservation is provided for in their treaty of March first, eighteen hundred and sixty-six, and also some of the improvements of the Sac and Foxes, of the Mississippi tribe of Indians, made on a reservation intended to be established in accordance with the provisions of their treaty of February eighteenth, eighteen hundred and sixty-seven; and whereas said improvements have been made upon said lands

by and for the aforesaid Indians, who have settled thereupon in good faith, in accordance with treaty stipulations; and whereas it is necessary, in order to secure these improvements to said Indians, and to insure them suitable reservations, that the lands occupied thereby should be granted to them; Therefore,

*Be it enacted by the Senate and House of Representatives, of the United States, of America, in Congress assembled:* That the Secretary of the Interior be, and he hereby is, authorized to negotiate with the aforesaid Creek Indians for the relinquishment to the United States of such portions of their country as may have been set apart in accordance with treaty stipulations, for the use of the Seminoles, and the Sacs and Foxes of the Mississippi tribes of Indians, respectively, found to be east of the line separating the Creek ceded lands from the Creek reservation, and also to negotiate and arrange with said tribes for a final and permanent adjustment of their reservations; and the Secretary shall report the result to Congress.

ACT OF APRIL 15, 1874, C. 97, 18 STAT. 29

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That the Commissioner of Indian Affairs, with the sanction of the Secretary of the Interior and the President of the United States, in distributing and paying annuities, interest, or other moneys now due or hereafter to become due to the Seminole tribe of Indians under the provisions of the eighth article of the treaty between the Creek and Seminole Indians and the United States, concluded August seventh, eighteen hun-

dred and fifty-six, shall be authorized to expend the same for such objects as will best promote the comfort, civilization, and improvement of the Seminole Indians, or in his discretion, with the sanction of the Secretary and the President aforesaid, shall be authorized to pay such annuities or any part thereof into the treasury of the Seminole nation to be used as the council of the same shall provide, instead of paying the same per capita according to the terms of said treaty: *Provided*, That said agreement shall provide that the sum of five thousand dollars shall be annually appropriated out of said annuity to the school fund of said tribe: *And provided further*, That the consent of said tribe to such expenditures and payment shall be first obtained.

PERTINENT PROVISION OF THE APPROPRIATION ACT OF  
AUGUST 5, 1882, C. 390, 22 STAT. 265

To pay the Creek Nation of Indians for one hundred and seventy-five thousand acres of land now occupied by the Seminole Nation, the sum of one hundred and seventy-five thousand dollars, as per agreement made in pursuance of the act of March third, eighteen hundred and seventy-three, which agreement bears date February fourteenth, eighteen hundred and eighty-one, and is now on file in the Department of the Interior; said sum to be immediately available.

ACT OF MARCH 2, 1889, C. 412, 25 STAT. 980, 1004

SEC. 12. That the sum of one million nine hundred and twelve thousand nine hundred and forty-two dollars and two cents be, and the same hereby

is, appropriated, out of any money in the Treasury not otherwise appropriated, to pay in full the Seminole Nation of Indians for all the right, title, interest, and claim which said nation of Indians may have in and to certain lands ceded by article three of the treaty between the United States and said nation of Indians, which was concluded June fourteenth, eighteen hundred and sixty-six, and proclaimed August sixteenth, eighteen hundred and sixty-six, and which land was then estimated to contain two million one hundred and sixty-nine thousand and eighty acres, but which is now, after survey, ascertained to contain two million thirty-seven thousand four hundred and fourteen and sixty-two hundredths acres, said sum of money to be paid as follows: One million five hundred thousand dollars to remain in the Treasury of the United States, to the credit of said nation of Indians and to bear interest at the rate of five per centum per annum from July first, eighteen hundred and eighty-nine, said interest to be paid semi-annually to the treasurer of said nation, and the sum of four hundred and twelve thousand nine hundred and forty-two dollars and twenty cents, to be paid to such person or persons as shall be duly authorized by the laws of said nation to receive the same, at such times and in such sums as shall be directed and required by the legislative authority of said nation, to be immediately available; this appropriation to become operative upon the execution by the duly appointed delegates of said nation, specially empowered so to do, of a release and conveyance to the United States of all the right, title, interest, and claim of said nation of Indians in and to said lands, in manner and

form satisfactory to the President of the United States, and said release and conveyance, when fully executed and delivered, shall operate to extinguish all claims of every kind and character of said Seminole Nation of Indians in and to the tract of country to which said release and conveyance shall apply, but such release conveyance, and extinguishment shall not inure to the benefit of or cause to vest in any railroad company any right, title, or interest whatever in or to any of said lands, and all laws and parts of laws so far as they conflict with the foregoing, are hereby repealed, and all grants or pretended grants of said lands or any interest or right therein now existing in or on behalf of any railroad company, except rights-of-way and depot grounds, are hereby declared to be forever forfeited for breach of condition.

**ACT OF JULY 31, 1894, 28 STAT. 162, 208**

Disbursing officers, or the head of any Executive Department, or other establishment not under any of the Executive Departments, may apply for and the Comptroller of the Treasury shall render his decision upon any question involving a payment to be made by them or under them, which decision, when rendered, shall govern the Auditor and the Comptroller of the Treasury in passing upon the account containing said disbursement.

**ACT OF JUNE 7, 1897, 30 STAT. 62, 84**

That on and after January first, eighteen hundred and ninety-eight, all acts, ordinances, and resolutions of the council of either of the aforesaid Five Tribes passed shall be certified immediately upon their passage to the President of the United

States and shall not take effect if disapproved by him or until thirty days after their passage: *Provided*, That this Act shall not apply to resolutions for adjournment, or any acts, or resolutions, or ordinances in relation to negotiations with commissioners heretofore appointed to treat with said tribes.

**ACT OF JUNE 28, 1898, C. 517, 30 STAT. 495, 502**

**SEC. 19.** That no payment of any moneys on any account whatever shall hereafter be made by the United States to any of the tribal governments or to any officer thereof for disbursement, but payments of all sums to members of said tribes shall be made under direction of the Secretary of the Interior by an officer appointed by him; and per capita payments shall be made direct to each individual in lawful money of the United States, and the same shall not be liable to the payment of any previously contracted obligation.

**ACT OF JULY 1, 1898, C. 542, 30 STAT. 567, RATIFYING  
THE SEMINOLE AGREEMENT OF DECEMBER 16, 1897**

Whereas an agreement was made by Henry L. Dawes, Tams Bixby, Frank C. Armstrong, Archibald S. McKennon, Thomas B. Needles, the Commission of the United States to the Five Civilized Tribes, and Allison L. Aylesworth, secretary, John F. Brown, Okchan Harjo, William Cully, K. N. Kinkehee, Thomas West, Thomas Factor, Seminole Commission, A. J. Brown, secretary, on the part of the Seminole Nation of Indians on December sixteenth, eighteen hundred and ninety-seven, as follows:

AGREEMENT BETWEEN THE UNITED STATES COMMISSIONERS TO  
NEGOTIATE WITH THE FIVE CIVILIZED TRIBES, AND THE COM-  
MISSIONERS ON THE PART OF THE SEMINOLE NATION

This agreement by and between the Government of the United States of the first part, entered into in its behalf by the Commission to the Five Civilized Tribes, Henry L. Dawes, Tams Bixby, Frank C. Armstrong, Archibald S. McKennon, and Thomas B. Needles, duly appointed and authorized thereunto, and the Government of the Seminole Nation in Indian Territory, of the second part, entered into on behalf of said Government by its Commission, duly appointed and authorized thereunto, viz, John F. Brown, Okchan Harjo, William Cully, K. N. Kinkehee, Thomas West and Thomas Factor;

Witnesseth, That in consideration of the mutual undertakings herein contained, it is agreed as follows:

All lands belonging to the Seminole tribe of Indians shall be divided into three classes, designated as first, second, and third class; the first class to be appraised at five dollars, the second class at two dollars and fifty cents, and the third class at one dollar and twenty-five cents per acre, and the same shall be divided among the members of the tribe so that each shall have an equal share thereof in value, so far as may be, the location and fertility of the soil considered; giving to each the right to select his allotment so as to include any improvements thereon, owned by him at the time; and each allottee shall have the sole right of occupancy of the land so allotted to him, during the existence of the present tribal government, and until the members of said tribe shall have become

citizens of the United States. Such allotments shall be made under the direction and supervision of the Commission to the Five Civilized Tribes in connection with a representative appointed by the tribal government; and the chairman of said Commission shall execute and deliver to each allottee a certificate describing therein the land allotted to him.

All contracts for sale, disposition, or encumbrance of any part of any allotment made prior to date of patent shall be void.

Any allottee may lease his allotment for any period not exceeding six years, the contract therefor to be executed in triplicate upon printed blanks provided by the tribal government, and before the same shall become effective it shall be approved by the principal chief and a copy filed in the office of the clerk of the United States court at Wewoka.

No lease of any coal, mineral, coal oil, or natural gas within said Nation shall be valid unless made with the tribal government, by and with the consent of the allottee and approved by the Secretary of the Interior.

Should there be discovered on any allotment any coal, mineral, coal oil, or natural gas, and the same should be operated so as to produce royalty, one-half of such royalty shall be paid to such allottee and the remaining half into the tribal treasury until extinguishment of tribal government, and the latter shall be used for the purpose of equalizing the value of allotments; and if the same be insufficient therefor, any other funds belonging to the tribe, upon extinguishment of tribal government, may be used for such purpose, so that each allotment may be made equal in value as aforesaid.

The townsite of Wewoka shall be controlled and disposed of according to the provisions of an act of the General Council of the Seminole Nation, approved April 23d, 1897, relative thereto; and on extinguishment of the tribal government, deeds of conveyance shall issue to owners of lots as herein provided for allottees; and all lots remaining unsold at that time may be sold in such manner as may be prescribed by the Secretary of the Interior.

Five hundred thousand dollars (\$500,000) of the funds belonging to the Seminoles, now held by the United States, shall be set apart as a permanent school fund for the education of children of the members of said tribe, and shall be held by the United States at five percent interest, or invested so as to produce such amount of interest, which shall be, after extinguishment of tribal government, applied by the Secretary of the Interior to the support of Mekasuky and Emahaka Academies and the district schools of the Seminole people; and there shall be selected and excepted from allotment three hundred and twenty acres of land for each of said academies and eighty acres each for eight district schools in the Seminole country.

There shall also be excepted from allotment one-half acre for the use and occupancy of each of twenty-four churches, including those already existing and such others as may hereafter be established in the Seminole country, by and with consent of the General Council of the Nation; but should any part of same, at any time, cease to be used for church purposes, such part shall at once revert to the Seminole people and be added to the lands set apart for the use of said district schools.

One acre in each township shall be excepted from allotment and the same may be purchased by the United States upon which to establish schools for the education of children of noncitizens when deemed expedient.

When the tribal government shall cease to exist the principal chief last elected by said tribe shall execute, under his hand and the seal of the Nation, and deliver to each allottee a deed conveying to him all the right, title, and interest of the said Nation and the members thereof in and to the lands so allotted to him, and the Secretary of the Interior shall approve such deed, and the same shall thereupon operate as relinquishment of the right, title, and interest of the United States in and to the land embraced in said conveyance, and as a guarantee by the United States of the title of said lands to the allottee; and the acceptance of such deed by the allottee shall be a relinquishment of his title to and interest in all other lands belonging to the tribe, except such as may have been excepted from allotment and held in common for other purposes. Each allottee shall designate one tract of forty acres, which shall, by the terms of the deed, be made inalienable and nontaxable as a homestead in perpetuity.

All moneys belonging to the Seminoles remaining after equalizing the value of allotments as herein provided and reserving said sum of five hundred thousand dollars for school fund shall be paid per capita to the members of said tribe in three equal installments, the first to be made as soon as convenient after allotment and extinguishment of tribal government, and the others at one

and two years, respectively. Such payments shall be made by a person appointed by the Secretary of the Interior, who shall prescribe the amount of and approve the bond to be given by such person; and strict account shall be given to the Secretary of the Interior for such disbursements.

The loyal Seminole claim shall be submitted to the United States Senate, which shall make final determination of same, and, if sustained, shall provide for payment thereof within two years from date hereof.

There shall hereafter be held at the town of Wewoka, the present capital of the Seminole Nation, regular terms of the United States court as at other points in the judicial district of which the Seminole Nation is a part.

The United States agrees to maintain strict laws in the Seminole country against the introduction, sale, barter, or giving away of intoxicants of any kind or quality.

This agreement shall in no wise affect the provisions of existing treaties between the Seminole Nation and the United States, except in so far as it is inconsistent therewith.

The United States courts now existing, or that may hereafter be created, in Indian Territory shall have exclusive jurisdiction of all controversies growing out of the title, ownership, occupation, or use of real estate owned by the Seminoles, and to try all persons charged with homicide, embezzlement, bribery, and embracery hereafter committed in the Seminole country, without reference to race or citizenship of the persons charged with such crime; and any citizen or officer of said nation

charged with any such crime, if convicted, shall be punished as if he were a citizen or officer of the United States, and the courts of said nation shall retain all the jurisdiction which they now have, except as herein transferred to the courts of the United States.

When this agreement is ratified by the Seminole Nation and the United States the same shall serve to repeal all the provisions of the Act of Congress approved June seventh, eighteen hundred and ninety-seven, in any manner affecting the proceedings of the general council of the Seminole Nation.

It being known that the Seminole Reservation is insufficient for allotments for the use of the Seminole people, upon which they, as citizens, holding in severalty, may reasonably and adequately maintain their families, the United States will make effort to purchase from the Creek Nation, at one dollar and twenty-five cents per acre, two hundred thousand acres of land, immediately adjoining the eastern boundary of the Seminole Reservation and lying between the North Fork and South Fork of the Canadian River, in trust for and to be conveyed by proper patent by the United States to the Seminole Indians, upon said sum of one dollar and twenty-five cents per acre being reimbursed to the United States by said Seminole Indians; the same to be allotted as herein provided for lands now owned by the Seminoles.

This agreement shall be binding on the United States when ratified by Congress and on the Seminole people when ratified by the general council of the Seminole Nation.

In witness whereof the said Commissioners have hereunto affixed their names at Muskogee, Indian

Territory, this sixteenth day of December, A. D.  
1897.

HENRY L. DAWES,  
TAMS BIXBY,  
FRANK C. ARMSTRONG,  
ARCHIBALD S. MCKENNON,  
THOMAS B. NEEDLES,

*Commission to the Five Civilized Tribes.*

ALLISON I. AYLESWORTH,

*Secretary.*

JOHN F. BROWN,  
OKCHAN HARJO,  
WILLIAM CULLY,  
K. N. KINKEHEE,  
THOMAS WEST,  
THOMAS FACTOR,

*Seminole Commission.*

A. J. BROWN,

*Secretary.*

Therefore,

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the same be, and is hereby, ratified and confirmed, and all laws and parts of laws inconsistent therewith are hereby repealed.*

Approved, July 1, 1898.

ACT OF MARCH 3, 1903, C. 994, 32<sup>ST</sup> STAT. 982, 1008

SEC. 8. That the tribal government of the Seminole Nation shall not continue longer than March fourth, nineteen hundred and six: *Provided*, That the Secretary of the Interior shall at the proper time furnish the principal chief with blank deeds necessary for all conveyances mentioned in the agreement with the Seminole Nation contained in

the Act of July first, eighteen hundred and ninety-eight (Thirtieth Statutes, page five hundred and sixty-seven), and said principal chief shall execute and deliver said deeds to the Indian allottees as required by said Act, and the deeds for allotment, when duly executed and approved, shall be recorded in the office of the Dawes Commission prior to delivery and without expense to the allottee until further legislation by Congress, and such records shall have like effect as other public records: *Provided further*, That the homestead referred to in said Act shall be inalienable during the lifetime of the allottee, not exceeding twenty-one years from the date of the deed for the allotment. A separate deed shall be issued for said homestead, and during the time the same is held by the allottee it shall not be liable for any debt contracted by the owner thereof.

RESOLUTION OF MARCH 2, 1906, 34 STAT. 822

[No. 7.] Joint Resolution Extending the tribal existence and government of the Five Civilized Tribes of Indians in the Indian Territory.

*Resolved by the Senate and House of Representatives of the United States of America in Congress assembled*, That the \* \* \* tribal governments of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes or nations of Indians in the Indian Territory are hereby continued in full force and effect for all purposes under existing laws until all property of such tribes, or the proceeds thereof, shall be distributed among the individual members of said tribes unless hereafter otherwise provided by law.

**ACT OF APRIL 26, 1906; C. 1876, 34 STAT. 137, 141, 148**

**SEC. 11.** That all revenues of whatever character accruing to the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes, whether before or after dissolution of the tribal governments, shall, after the approval hereof, be collected by an officer appointed by the Secretary of the Interior under rules and regulations to be prescribed by him; and he shall cause to be paid all lawful claims against said tribes which may have been contracted after July first, nineteen hundred and two, or for which warrants have been regularly issued, such payments to be made from any funds in the United States Treasury belonging to said tribes. All such claims arising before dissolution of the tribal governments shall be presented to the Secretary of the Interior within six months after such dissolution, and he shall make all rules and regulations necessary to carry this provision into effect and shall pay all expenses incident to the investigation of the validity of such claims or indebtedness out of the tribal funds: *Provided*, That all taxes accruing under tribal laws or regulations of the Secretary of the Interior shall be abolished from and after December thirty-first, nineteen hundred and five, but this provision shall not prevent the collection after that date nor after dissolution of the tribal government of all such taxes due up to and including December thirty-first, nineteen hundred and five, and all such taxes levied and collected after the thirty-first day of December, nineteen hundred and five, shall be refunded.

Upon dissolution of the tribal governments, every officer, member, or representative of said

tribes, respectively, having in his possession, custody, or control any money or other property of any tribe shall make full and true account and report thereof to the Secretary of the Interior, and shall pay all money of the tribe in his possession, custody, or control, and shall deliver all other tribal property so held by him, to the Secretary of the Interior, and if any person shall willfully and fraudulently fail to account for all such money and property so held by him, or to pay and deliver the same as herein provided for sixty days from dissolution of the tribal government, he shall be deemed guilty of embezzlement and upon conviction thereof shall be punished by a fine of not exceeding five thousand dollars or by imprisonment, not exceeding five years, or by both such fine and imprisonment, according to the laws of the United States relating to such offense, and shall be liable in civil proceedings to be prosecuted in behalf of and in the name of the tribe for the amount or value of the money or property so withheld.

\* \* \* \* \*

SEC. 28. That the tribal existence and present tribal governments of the Choctaw, Chickasaw, Cherokee, Creek, and Seminole tribes or nations are hereby continued in full force and effect for all purposes authorized by law, until otherwise provided by law, but the tribal council or legislature in any of said tribes or nations shall not be in session for a longer period than thirty days in any one year: *Provided*, That no act, ordinance, or resolution (except resolutions of adjournment) of the tribal council or legislature of any of said tribes or nations shall be of any validity until approved by the President of the United States: *Provided*

*further,* That no contract involving the payment or expenditure of any money or affecting any property belonging to any of said tribes or nations made by them or any of them or by any officer thereof, shall be of any validity until approved by the President of the United States.

ACT OF AUGUST 12, 1935; C. 508, 49 STAT. 571, 596

SEC. 2. In all suits now pending in the Court of Claims by an Indian tribe or band which have not been tried or submitted, and in any suit hereafter filed in the Court of Claims by any such tribe or band, the Court of Claims is hereby directed to consider and to offset against any amount found due the said tribe or band all sums expended gratuitously by the United States for the benefit of the said tribe or band; and in all cases now pending or hereafter filed in the Court of Claims in which an Indian tribe or band is party plaintiff, wherein the duty of the court is merely to report its findings of fact and conclusions to Congress, the said Court of Claims is hereby directed to include in its report a statement of the amount of money which has been expended by the United States gratuitously for the benefit of the said tribe or band: *Provided*, That expenditures made prior to the date of the law, treaty, agreement, or Executive order under which the claims arise shall not be offset against the claims or claim asserted; and expenditures under the Act of June 18, 1934 (48 Stat. L. 984), except expenditures under appropriations made pursuant to section 5 of such Act, shall not be charged as offsets against any claim on behalf of an Indian tribe or tribes now pending in the Court of Claims or hereafter filed: *Provided fur-*

ther, That funds appropriated and expended from tribal funds shall not be construed as gratuities; and this section shall not be deemed to amend or affect the various Acts granting jurisdiction to the Court of Claims to hear and determine the claims listed on page 678 of the hearings before the subcommittee of the House Committee on Appropriations on the second deficiency appropriation bill for the fiscal year 1935: *And provided further,* That no expenditure under any emergency appropriation or allotment made subsequently to March 4, 1933, and generally applicable throughout the United States for relief in stricken agricultural areas, relief from distress caused by unemployment and conditions resulting therefrom, the prosecution of public works and public projects for the relief of unemployment or to increase employment, and for work relief (including the civil-works program) shall be considered in connection with the operation of this section.

## PART II. MISCELLANEOUS

DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE ASSISTANT ATTORNEY GENERAL,  
*Washington, July 12, 1898.*

The SECRETARY OF THE INTERIOR.

SIR: By your communication of July 9, 1898, I am asked for an opinion whether section 19 of an act of Congress approved June 28, 1898 (Public No. 162), entitled "An act for the protection of the people of the Indian Territory, and for other purposes," applies to the Seminole Nation of Indians.

Said section is as follows:

That no payment of any moneys on any account whatever shall hereafter be made by the United States to any of the tribal governments or to any officer thereof for disbursement, but payments of all sums to members of said tribes shall be made under direction of the Secretary of the Interior by an officer appointed by him; and per capita payments shall be made direct to each individual in lawful money of the United States, and the same shall not be liable to the payment of any previously contracted obligation.

It is submitted that until the passage of this act it had been the practice of this Department, under the laws and regulations then in force, to deposit "such funds" in bulk with the Assistant Treasurer of the United States, at St. Louis, to the credit of the treasurers of "these tribes," to

be disbursed by them in their own way, under the laws of their respective nations.

By the expression "such funds" and "these tribes," used in your communication, I take it is meant moneys due any of the five civilized tribes from the United States government. The practice of this Department, therefore, has been to deposit any moneys, subject to disbursement on account of these tribes, with the Assistant Treasurer, at St. Louis, to the credit of the treasurers thereof, to be disbursed by them without the further supervision of the government.

Section one of the act, *supra*, provides that the word "officer," where the same appears in the criminal laws theretofore extended over and put in force in the Indian Territory, shall include all officers "of the several tribes or nations of Indians in said Territory."

Section 2 authorizes and requires the Judge of a United States Court of any district in said Territory to make "any tribe" of Indians a party to any suit pending in his court where it appears that the property of such tribe is in any way affected by the issues being heard.

Section 3 confers jurisdiction on the United States district courts in said Territory to try cases against persons who claim to hold lands and tenements as members of a tribe, and whose membership is denied by the tribe, and provides that "if it be found upon trial that the same are held unlawfully against the tribe by those claiming to be members thereof, and the membership and right are disallowed by the commission to the *Five Tribes*, or the United States court \* \* \* then said court shall cause the parties charged with un-

lawfully holding said possessions to be removed from the same and cause the lands and tenements to be restored to the person or persons or nation or tribe of Indians entitled to the possession of the same."

Section 4 provides, "That all persons who have heretofore made improvements on lands belonging to any one of the said tribes of Indians" may under certain conditions sell and dispose of the same.

Section 11 provides for the allotment of lands when the roll of citizenship of "any one of said nations or tribes" is fully completed.

Section 15 provides, "That there shall be a commission in each town for each one of the Chickasaw, Choctaw, Creek, and Cherokee tribes," who shall cause to be surveyed and laid out townsites.

Section 16 makes it unlawful for any person to claim, demand or receive any royalty or rents on any lands or property belonging to "any one of said tribes or nations in said Territory."

Section 17 provides that it shall be unlawful for "any citizen of any one of said tribes" to hold possession of more than his approximate share of the allotted lands.

It is apparent from these excerpts from the act that section 19 prohibits the payment by the United States of moneys on any account whatever to officers or tribal governments of *any* of the five civilized tribes.

The Seminole Indians, as such, are nowhere mentioned in the act, but these Indians constitute one of the five civilized tribes, and are within the inhibition of said section, unless, as to them, it has been repealed by subsequent legislation.

An act approved July 1, 1898 (Public, No. 172), ratified the agreement of December 16, 1897, between the Dawes Commission and the Seminole Nation of Indians. One of the stipulations of that agreement was, that—

All moneys belonging to the Seminoles remaining after equalizing the value of allotments as herein provided, and reserving said sum of five hundred thousand dollars for school fund, shall be paid per capita to the members of said tribe in three equal instalments, the first to be made as soon as convenient, after allotment and extinguishment of the tribal government. Such payments shall be made by a person appointed by the Secretary of the Interior, who shall prescribe the amount of and approve the bond to be given by such person; and strict account shall be given to the Secretary of the Interior for such disbursements.

The act *supra*, which ratifies and confirms this agreement, repeals “all laws and parts of laws inconsistent therewith.”

There is nothing in the language quoted inconsistent with the provisions of section 19 of the act of June 28, 1898, *supra*. Indeed, these provisions in the two acts are substantially the same. The provision in the Seminole act that “all moneys belonging to the Seminole Indians \* \* \* shall be paid *per capita* to the members of said tribe,” the first payment to be made after the “extinguishment of tribal government” “by a person appointed by the Secretary of the Interior,” is the substantial equivalent of the language used in the general act that payments shall not be made “to any of the tribal governments or any officer thereof,” but

shall be made per capita direct to each individual, "under direction of the Secretary of the Interior by an officer appointed by him."

I have therefore to advise that section 19 of the act of June 28, 1898, applies to the Seminole Nation of Indians. Moreover, it results from what has been hereinbefore said that whether that act applies or not, the manner of disbursement under the Seminole act must be the same.

Very respectfully,

WILLIS VAN DEVANTER,  
*Assistant Attorney General.*

DEPARTMENT OF THE INTERIOR,

*July 12, 1898.*

APPROVED:

THOS. RYAN,  
*Acting Secretary.*

LETTER FROM ASSISTANT ATTORNEY GENERAL VAN  
DEVANTER TO THE SECRETARY OF THE INTERIOR

DEPARTMENT OF THE INTERIOR,  
OFFICE OF THE ASSISTANT ATTORNEY GENERAL,

*Washington, August 15, 1898.*

THE SECRETARY OF THE INTERIOR.

SIR: Under your reference of the 9th instant I have carefully considered the motion of the Seminole nation of Indians for a reconsideration of an opinion, dated the 12th ult., prepared in my office, upon the question whether section 19 of the act of June 28, 1898 (Public No. 162), entitled "An Act for the protection of the people of the Indian Territory and for other purposes," applies to the Seminole nation of Indians.

The matter involved in this reference and in your original request for an opinion, is of very difficult

solution and requires a careful examination of the Seminole treaties and of the legislation by Congress relating to that tribe. The real question intended to be presented is not simply whether section 19 of the act of June 28, 1898, applies to the Seminole tribe, but also whether that section is limited in its application to payments to members or per capita payments, or whether it includes and is applicable to the payment of the expenses of maintaining and conducting the tribal government.

The act of July 31, 1894 (28 Stat., 162, 208), provides:

Disbursing officers, or the head of any Executive Department, or other establishment not under any of the Executive Departments, may apply for and the Comptroller of the Treasury shall render his decision upon any question involving a payment to be made by them or under them, which decision, when rendered, shall govern the Auditor and the Comptroller of the Treasury in passing upon the account containing said disbursement.

The Comptroller of the Treasury seems to be the final arbiter of questions of the character here involved. An opinion by me upon the question presented would not be conclusive, and since the statute provides the means of obtaining an authoritative decision from the Comptroller of the Treasury, I respectfully suggest that my opinion of the 12th ultimo be withdrawn and that the matter be presented to the Comptroller of the Treasury for his decision.

I have personally prepared, and herewith submit for your consideration, a form of letter to the

Comptroller which, it is believed, presents the real question involved and all matters necessary to its proper solution.

Very respectfully,

WILLIS VAN DEVANTER,  
Assistant Attorney General.

DEPARTMENT OF THE INTERIOR.

August 16, 1898.

Approved:

C. N. BLISS,

*Secretary.*

TREASURY DEPARTMENT,

OFFICE OF COMPTROLLER OF THE TREASURY,

Washington, D. C., August 23, 1898.

The Honorable,

The SECRETARY OF THE INTERIOR,

(Aug. 16, 1898)

SIR: I have received your letter, without date, as follows:

The Indian appropriation act approved July 1, 1898 (Public, No. 175), makes the following appropriations for the Seminole tribe or nation of Indians:

"For five per centum interest on two hundred and fifty thousand dollars, to be paid as annuity, per *eighth* article of treaty of August seventh, eighteen hundred and *fifty-six*, twelve thousand five hundred dollars;

"For five per centum interest on two hundred and fifty thousand dollars, to be paid as annuity (they having joined their brethren West) per *eighth* article of treaty of August seventh, eighteen hundred and *fifty-six*, twelve thousand five hundred dollars;

"For interest on fifty thousand dollars, at the rate of five per centum per annum, to be paid annually for the support of schools, as per *third* article of treaty of March twenty-first, eighteen hundred and *sixty-six*, two thousand five hundred dollars;

"For interest on twenty thousand dollars, at the rate of five per centum per annum; to be paid annually for the support of the Seminole government, as per *same article same treaty*, one thousand dollars; in all, twenty-eight thousand five hundred dollars.'

"The treaty of August 7, 1856, with the Creeks and Seminoles (11 Stat. 699), secured to the said tribes respectively the right of self-government and contained the following stipulations in that connection:

"ARTICLE IV. The United States do hereby solemnly agree and bind themselves, that no State or Territory shall ever pass laws for the government of the Creek or Seminole Tribe of Indians, and that no portion of either of the tracts of country defined in the first and second articles of this agreement shall ever be embraced or included within, or annexed to, any Territory or State, nor shall either, or any part of either; ever be erected into a Territory without the full and free consent of the legislative authority of the tribe owning the same.

\* \* \* \* \*

"ARTICLE XV. So far as may be compatible with the constitution of the United States, and the laws made in pursuance thereof, regulating trade and intercourse with the Indian tribes, the Creeks and Seminoles shall be secured in the unrestricted right of self-government, and full jurisdiction over persons and property, within their

respective limits; excepting, however, all white persons, with their property, who are not, by adoption or otherwise, members of either the Creek or Seminole tribe; \* \* \*

"The first two items of appropriation hereinbefore-mentioned are in fulfillment of that part of Article VIII, of this treaty, wherein the United States agrees and stipulate with the Seminoles—

"\* \* \* Also to invest for them the sum of two hundred and fifty thousand dollars, at five per cent. per annum, the interest to be regularly paid over to them *per capita* as annuity; the further sum of two hundred and fifty thousand dollars shall be invested in like manner whenever the Seminoles now remaining in Florida shall have emigrated and joined their brethren in the west, whereupon the two sums so invested shall constitute a fund belonging to the United tribe of Seminoles, and the interest on which, at the rate aforesaid, shall be annually paid over to them *per capita* as an annuity; \* \* \*

"The Seminole treaty of March 21, 1866 (14 Stat. 757), contains the following provision respecting the continuation of the tribal government:

"ARTICLE VII. The Seminole nation agrees to such legislation as Congress and the President may deem necessary for the better administration of the rights of person and property within the Indian Territory; *Provided, however,* That said legislation shall not in any manner interfere with or annul their present tribal organization, rights, laws, privileges, and customs."

"The last two items of appropriation hereinbefore mentioned are in fulfillment of that part of the third article of the treaty of March 21, 1866, wherein the United States

agreed to pay to the Seminoles the further sum of—

“ \* \* \* \* seventy thousand dollars, to remain in the United States treasury, upon which the United States shall pay an annual interest of five percent; fifty thousand of said sum of seventy thousand dollars shall be a permanent school fund, the interest of which shall be paid annually and appropriated to the support of schools; the remainder of the seventy thousand dollars, being twenty thousand dollars, shall remain a permanent fund, the interest of which shall be paid annually for the support of the Seminole government; \* \* \* ”

“ As affecting the first two items of appropriation hereinbefore mentioned the act of Congress of April 15, 1874 (18 Stat. 29), provides:

“ That the Commissioner of Indian Affairs, with the sanction of the Secretary of the Interior and the President of the United States, in distributing and paying annuities, interest, or other moneys now due or hereafter to become due to the Seminole tribe of Indians under the provisions of the eighth article of the treaty between the Creek and Seminole Indians and the United States, concluded August seventh, eighteen hundred and fifty-six, shall be authorized to expend the same for such objects as will best promote the comfort, civilization, and improvement of the Seminole Indians, or in his discretion, with the sanction of the Secretary and the President aforesaid, shall be authorized to pay such annuities or any part thereof into the treasury of the Seminole nation to be used as the council of the ~~same~~ shall provide, instead of paying the ~~same~~ per capita according to the terms of said

treaty; *Provided*, That said agreement shall provide that the sum of five thousand dollars shall be annually appropriated out of said annuity to the school fund of said tribe; *And provided further*, That the consent of said tribe to such expenditures and payment shall be first obtained.'

"By the act of the Seminole legislature (also called council) of April 2, 1879, the tribe consented that all annuities then due or thereafter to become due to it under the provisions of the 8th article of the said treaty of August 7, 1856, should be paid into the Treasury of the Seminole nation to be used as the council of the same should provide, instead of being paid per capita according to the terms of said treaty, and by said Seminole act it was further provided that the sum of \$5,000, should be annually appropriated out of said annuity to the school fund of said tribe. In pursuance of said act of Congress of April 15, 1874, and of the consent of the tribe so given by the act of its legislature, the Commissioner of Indian Affairs, with the sanction of the Secretary of the Interior and the President of the United States, has since April 2, 1879, regularly paid into the treasury of the Seminole nation, to be used as the council of the same should provide, the annuities due to said tribe under the provisions of the 8th article of the said treaty of August 7, 1856, and the sum of \$5,000 has annually been appropriated by the said tribe out of said annuity to the school fund of said tribe.

"Following the said act of Congress of April 15, 1874, and the Seminole act of April 2, 1879, the Commissioner of Indian Affairs in his discretion, with the sanction of the Secretary of the Interior and the President

of the United States, now desires to pay into the treasury of the Seminole nation as heretofore the annuities named in the first two items of appropriation hereinbefore mentioned, to be used as the council of the same shall provide, if section 19 of the act of Congress of June 28, 1898 (Public No. 162), entitled, 'An Act for the protection of the people of the Indian Territory and for other purposes,' does not prohibit the further payment of said annuities into the tribal treasury.

"Heretofore the money annually appropriated by Congress for the support of the Seminole schools and for the support of the Seminole government, respectively, in fulfillment of the 3d article of the treaty of March 21, 1866, has been paid under the direction of the Secretary of the Interior to the treasurer of said tribe, to be applied to said purposes and expended according to the laws of the tribe, and it is now desired by the Commissioner of Indian Affairs and the Secretary of the Interior that the moneys embraced in the last two items of appropriation hereinbefore mentioned shall now be paid as heretofore to the treasurer of said tribe to be applied to said purposes and expended according to the laws of the tribe, if section 19 of the act of Congress of June 28, 1898, *supra*, does not prohibit the further payment of said moneys to the tribal treasurer.

"By act of Congress of March 2, 1889 (25 Stat. 980, 1004), certain moneys were appropriated to pay the Seminoles for the release and conveyance of certain lands, which moneys were to be paid as follows:

" \* \* \* One million five hundred thousand dollars to remain in the Treasury

of the United States to the credit of said nation of Indians and to bear interest at the rate of five per centum per annum from July first, eighteen hundred and eighty-nine, said interest to be paid semiannually to the treasurer of said nation, and the sum of four hundred and twelve thousand nine hundred and forty-two dollars and twenty cents, to be paid to such person or persons as shall be duly authorized by the laws of said nation to receive the same, at such times and in such sums as shall be directed and required by the legislative authority of said nation, to be immediately available: \* \* \*

"Upon the execution and delivery of the required release and conveyance, the said sum of \$412,942.20 was paid to the treasurer of the tribe, he being authorized by a law of the nation to receive the same, and since then the semiannual interest on the said \$1,500,000 has been regularly paid "to the treasurer of said nation" to be used, applied and expended according to the laws of the tribe. An instalment of this interest fell due July 1, 1898, but this Department is not yet advised whether it has been paid to the tribal treasurer or is being withheld pending the consideration of the provisions of section 19 of the act of June 28, 1898, *supra*.

"The four items of appropriation for the Seminoles made by the Indian appropriation act of July 1, 1898, *supra*, and the annual interest on the \$1,500,000, under the act of March 2, 1889, *supra*, make the total annual income or revenue of the Seminoles from funds held by the United States \$103,500.00. Under the laws of that nation or tribe this income or revenue is appropriated, used, applied, and expended in the payment of the expenses of maintaining and

conducting the tribal government, including an executive office, a legislature (or council), courts, constabulary, public schools, charitable and penal institutions, public roads and bridges, etc.,—the annual appropriation for public schools being \$24,000.

"The act of Congress of June 28, 1898 (Public, No. 162), entitled 'An Act for the protection of the people of the Indian Territory and for other purposes,' chiefly relates to the affairs and government of the Five Civilized Tribes of Indians in said Territory, the Seminole tribe being one of them. Section 19 of this act provides:

"That no payment of any moneys on any account whatever shall hereafter be made by the United States to any of the tribal governments or to any officer thereof for disbursement, but payments of all sums to members of said tribes shall be made under direction of the Secretary of the Interior by an officer appointed by him; and per capita payments shall be made direct to each individual in lawful money of the United States, and the same shall not be liable to the payment of any previously contracted obligation."

"This section as it passed the House of Representatives did not contain the words 'by the United States' following the words 'hereafter be made' in the first part of the section, but did contain the words 'all expenses incurred in transacting their business and of' following the words 'but payments of' near the middle of the section. In the course of the consideration of the measure in the Senate the section was amended by inserting the words 'by the United States' as above indicated, and by striking out the words 'all expenses incurred in transacting their business and of,' as above

indicated. A copy of the bill, H. R. 8581, as it passed the House of Representatives, with the Senate amendments shown therein, accompanied the letter of the Acting Secretary of the Interior of the 23d ultimo, requesting a ruling by you respecting the payment of certain appropriations made for the Creek Indians.

"By act of Congress of July 1, 1898 (Public No. 172), entitled 'An Act to ratify the agreement between the Dawes commission and the Seminole nation of Indians,' an agreement negotiated between the Seminoles and the Dawes commission, bearing date December 16, 1897, was ratified by Congress and all laws and parts of laws inconsistent therewith were thereby repealed. This agreement seems to recognize the existing tribal government of the Seminoles and to contemplate a continuance thereof for the time being, although it also seems to contemplate and to be intended to lead up to, an ultimate extinguishment of the tribal government. The effect of this agreement upon existing treaty stipulations is therein stated in these words:

"'This agreement shall in nowise affect the provisions of existing treaties between the Seminole nation and the United States except in so far as it is inconsistent therewith.'

"The only provisions in this agreement regulating the payment of money to the Seminole tribe, are contained in the three following stipulations therein:

"'Should there be discovered on any allotment any coal, mineral, coal oil, or natural gas, and the same should be operated so as to produce royalty, one-half of such royalty shall be paid to such allottee and the remaining half into the tribal treasury until extinguishment of tribal government, and the

latter shall be used for the purpose of equalizing the value of allotments; and if the same be insufficient therefor, any other funds belonging to the tribe, *upon extinguishment of tribal government*, may be used for such purpose, so that each allotment may be made equal in value as aforesaid.

“Five hundred thousand dollars (\$500,000) of the funds belonging to the Seminoles, now held by the United States, shall be set apart as a permanent school fund for the education of children of the members of said tribe, and shall be held by the United States at five percent interest, or invested so as to produce such amount of interest, which shall be, *after extinguishment of tribal government*, applied by the Secretary of the Interior to the support of Mekasuky and Emahaka Academies and the district schools of the Seminole people;

“All moneys belonging to the Seminoles *remaining after equalizing the value of allotments as herein provided*, and reserving said sum of five hundred thousand dollars for school funds shall be paid per capita to the members of said tribe in three equal instalments, the first to be made as soon as convenient *after allotment and extinguishment of tribal government*, and the others at one and two years, respectively. Such payments shall be made by a person appointed by the Secretary of the Interior, who shall prescribe the amount of and approve the bond to be given by such person; and strict account shall be given to the Secretary of the Interior for such disbursements.”

"A question has arisen whether the money due to the Seminole tribe under the Indian appropriation act of July 1, 1898, aforesaid, and the interest on the \$1,500,000 under the act of March 2, 1889, aforesaid, can all, or any of it, be now paid into the tribal treasury, as heretofore, or whether such money must be paid out and disbursed 'under direction of the Secretary of the Interior by an officer appointed by him' pursuant to section 19 of the act of June 28, 1898, aforesaid.

"The Seminole tribe insist that all of said money can be, and should be, paid as heretofore, into the tribal treasury, to be applied and expended according to the laws of the tribe. In this connection the tribe contends:

"First, That section 19 only prohibits the payment of money 'to any of the tribal governments or to any officer thereof *for disbursement*,' and that the word 'disbursement,' as here employed, means distribution in the sense of a division among the members and does not include the payment of expenses incurred in the course of maintaining and conducting the tribal government. It is claimed that this is shown (a) by the striking out of the words 'all expenses incurred in transacting their business and of' from the section as it passed the House of Representatives; (b) by the fact that otherwise construed the two parts of the section are not coextensive or harmonious, the first part of the section withholding all moneys of every kind from the tribal government and its officers, while the succeeding part of the section only regulates payments to members or per capita payments; in other words, that no provision is made for the payment of the expenses of

maintaining and conducting the tribal government to which the moneys are appropriated and applied under the tribal laws, the new and substituted provision for disbursement only applying to payments to members or per capita payments, while the expenses incurred in maintaining and conducting the tribal government are not incurred on the per capita plan and in many instances are to be paid to persons who are not members of the tribe, as in the case of payments to teachers in the public schools; (c) by the fact that contemporaneously with the adoption of section 19, and as a part of the same act (sections 29 and 30), agreements with the Choctaws and Chickasaws and with the Muscogees or Creeks, were ratified, containing the following stipulations, respectively:

"That all per capita payments hereafter made to the *members* of the Choctaw or Chickasaw nations shall be paid directly to each individual member by a bonded officer of the United States, under the direction of the Secretary of the Interior, which officer shall be required to give strict account for such disbursements to said Secretary."

"All payments hereafter to be made to the members of the said nation shall be paid directly to each individual member by a bonded officer of the United States, under the direction of the Secretary of the Interior, which officer shall be required to give strict account for such disbursements to the Secretary."

and by the fact that the Seminole agreement ratified almost simultaneously (July 1, 1898) contains a similar provision (hereinbefore quoted), all being limited to a regulation of payments to members or per capita

payments—the claim advanced in this connection being that the provisions of these three agreements upon this subject are *in pari materia* with section 19 and all should be construed together, and that so construed section 19 does not include payments which are not otherwise directed by law to be made to members or per capita; (d) by the fact that the following provision of the act of June 7, 1897 (30 Stat. 62, 84):

"That on and after January first, eighteen hundred and ninety-eight, all acts, ordinances, and resolutions of the council of either of the aforesaid Five Tribes passed shall be certified, immediately upon their passage to the President of the United States and shall not take effect, if disapproved by him, or until thirty days after their passage; *Provided*, That this act shall not apply to resolutions for adjournment, or any acts, or resolutions, or ordinances in relation to negotiations with commissioners heretofore appointed to treat with said tribes."

was entirely repealed as to the Seminoles by the terms of the agreement with that tribe ratified July 1, 1898, and was repealed as to tribal laws appropriating money for the regular and necessary expenses of the tribal government by the agreements with the Choctaws and Chickasaws and with the Muscogees or Creeks ratified by the act of June 28, 1898, thereby manifesting the intention of Congress to commit to these tribes the full control heretofore exercised over the expenses of maintaining and conducting the tribal governments.

"SECOND. That section 19 does not require that money payable in any other form or manner, be changed or converted into payments to members or per capita payments,

but only directs that such payments to members or per capita payments as are elsewhere and otherwise provided for by law, shall be made under the direction of the Secretary of the Interior, according to the provisions of that section. In this connection the tribe claims that by the action of the tribe and of the Commissioner of Indian Affairs, under the act of April 15, 1874, *supra*, the interest payments provided for by the eighth article of the treaty of August 7, 1856, which include the first two items of appropriation hereinbefore mentioned, were changed and converted from per capita payments into payments for school and other tribal purposes; that the payments of interest provided for by the third article of the treaty of March 21, 1866, which include the last two items of appropriation hereinbefore mentioned, and the payments of interest provided for by the act of March 2, 1889, *supra*, have never been directed to be made to members of per capita but were directed to be made otherwise; and that therefore the pending payments to the Seminole tribe, under the Indian appropriation act of July 1, 1898, and the act of March 2, 1889, do not any of them come within the provisions of section 19.

"THIRD. That if section 19, properly construed, applies to the payment of the expenses of maintaining and conducting the tribal government it is repealed, as to the Seminole tribe, by the subsequent act of July 1, 1898, ratifying the new agreement with that tribe and repealing 'all laws and parts of laws inconsistent therewith,' because that agreement, as a whole and in every essential particular, shows that the intent and purpose of Congress and the Seminole tribe was to continue the existing tribal

government with all of its official machinery, until the affairs of the tribe are concluded and the tribe is ready to go out of existence.

"Because of the importance of the questions presented, and the necessity of having an authoritative decision thereof, I beg that under the provisions of the act of July 31, 1894 (28 Stat. 162, 208), you will decide whether the moneys appropriated for the Seminole tribe, by the Indian appropriation act of July 1, 1898, and the interest money provided for by the act of March 2, 1889, can now, as heretofore, be paid into the tribal treasury, or whether such moneys are now required to be paid or disbursed under the direction of the Secretary of the Interior by an officer appointed by him, pursuant to the provisions of section 19 of the act of June 28, 1898."

It seems unnecessary to enter into a critical analysis of the language of section 19 of the act of June 28, 1898 (Public No. 162); for reasons which will presently appear.

The agreement made between the Dawes Commission and the Seminole Indians, December 16, 1897, was ratified by Congress by the act of July 1, 1898 (Public No. 172). The enacting clause of this act provides:

*"That the same be, and is hereby, ratified and confirmed, and all laws and parts of laws inconsistent therewith are hereby repealed."*

If section 19 of the act of June 28, 1898, is inconsistent with the provisions of the agreement, which was ratified by the act of July 1, 1898, the former has been repealed so far as the Seminole Indians are concerned.

There is a clause in the agreement as follows:

"This agreement shall in nowise affect the provisions of existing treaties between the Seminole Indians and the United States, except in so far as it is inconsistent therewith."

From the foregoing it clearly appears that the rights and duties of the Seminole Indians are to be measured by the provisions of existing treaties construed in the light of and together with the agreement of December 16, 1897.

"This agreement shall be binding on the United States when ratified by Congress and on the Seminole people when ratified by the general council of the Seminole Nation."

The agreement has been ratified by both parties, and, therefore, it will control in the disposition of the question presented.

From the presentation of the case as it appears in your letter—it seems to me clear that it was not the intention of the agreement, nor does that instrument in fact deprive the Seminole tribal government of its privilege and duty of disbursing its own funds *prior to the time of the extinguishment of its tribal government*, which extinguishment is evidently contemplated in the near future; therefore, I am of opinion that the moneys due these Indians can be turned over to the tribal authorities for disbursement until such time as the tribal government shall be extinguished.

Respectfully yours,

L. P. MITCHELL,  
Assistant Comptroller.

J. D. T.

CCM 7

TREASURY DEPARTMENT,  
OFFICE OF COMPTROLLER OF THE TREASURY,

Washington, October 19, 1906.

The Honorable

The SECRETARY OF THE INTERIOR.

SIR: I have received your letters of October 8 and 12, 1906 (I. T. D.) in reference to the method of disbursing moneys due the Seminole tribe of Indians. The questions upon which you ask my decision are the following:

1. Whether, under the provisions of sections 11 and 28 of the act of April 26, 1906 (34 Stat. 137), expenditures from the tribal funds and distribution of annuities arising therefrom to members of the Seminole tribe should be made by the tribal authorities of the Seminole Nation or under the direction of the Secretary of the Interior.

In the decision of this office, dated August 23, 1898 (7 MS. Dec. 350), it was held that section 19 of the act of June 28, 1898 (30 Stat. 502), requiring that no moneys on any account whatever should be paid to tribal authorities, but be paid out under the direction of the Secretary of the Interior, did not apply to the Seminoles. The reason for that holding was that the later act of July 1, 1898 (30 Stat. 567), ratifying and confirming an agreement with the Seminoles, expressly repealed all laws and parts of laws inconsistent with the later act. It was therefore further held that the act of June 28, 1898, *supra*, did not deprive the Seminole tribal government of its privilege and duty of disbursing its own funds prior to the extinguishment of its tribal government.

The act of April 26, 1906, *supra*, by section 28, specifically continues the tribal existence and present tribal governments of the Five Civilized Tribes and naming each of them.

Your first question can only be answered by considering whether section 11 of the act of 1906 does deprive the Seminole tribal government of its right to disburse its own funds while the tribal government continues, a right which the Controller held was preserved in the agreement between the United States and the Seminoles, ratified July 1, 1898.

Under treaties of August 7, 1856, and March 21, 1866, the Seminoles are entitled to appropriations of \$28,500 each year, being the interest at five per centum per annum on \$570,000. Such appropriations are made from year to year. By the act of March 2, 1889 (25 Stat. 1004), it was provided that \$1,500,000, a part of the price of lands purchased by the United States from the Seminoles, should remain in the Treasury and five per centum per annum thereon should be paid semiannually to the treasurer of the Seminole Nation. By the agreement which was ratified in the act of July 1, 1898 (30 Stat. 567), it was provided that:

"Five hundred thousand dollars (\$500,000) of the funds belonging to the Seminoles, now held by the United States, shall be set apart as a permanent school fund for the education of children of the members of said tribe, and shall be held by the United States at five percent interest, or invested so as to produce such amount of interest, which shall be, after extinguishment of tribal government, applied by the Secretary of the Interior to the support of Mekasuky and Ema-

haka Academies and the district schools of the Seminole people."

By the act of April 15, 1874 (18 Stat. 29), it was provided that the annual payment of \$25,000 under the treaty of 1856 might be paid into the treasury of the Seminole Nation to be used as the council of the Nation should provide, if the tribe consented thereto and agreed to appropriate \$5,000 annually for the school fund. This consent and agreement was given and made by the Seminoles.

An examination of the language in the first sentence in section 11 of the act of April 26, 1906, *supra*, makes it clear that the revenues accruing to the tribes, which revenues are to be collected by an officer appointed by the Secretary of the Interior, do not include the interest on moneys of the Seminole tribe in the Treasury of the United States. By treaty, law and agreement with the Seminoles such interest is required to be paid into the tribal treasury. Neither the act of 1906, nor earlier laws, make specific provision for the distribution of the interest money among the members of the tribe. There is, in my opinion, no authority in section 11 for the Secretary to make distribution of annuities arising from tribal funds to members of the Seminole tribe. Neither from the language of the section, nor by implication, can such authority be found. Nor is there authority in that section for the Secretary to apply such interest to the payment of any obligations except lawful claims against the tribe contracted after July 1, 1902, or for which warrants have been regularly issued. As to such claims and such warrants full authority is given to the Secretary of the Interior to use any fund in the United States

Treasury belonging to the tribe to make payment, and that authority continues as to claims contracted or warrants issued prior to dissolution of the tribal government.

In answer to your first question, I am of the opinion that expenditures from the tribal funds, and distribution of annuities arising therefrom to members of the Seminole tribe should be made by the tribal authorities of the Seminole Nation, subject, however, to the approval of the President so far as required by section 28 of the act; and except as the right and duty is devolved upon you to disburse so much of the funds as is necessary to carry out the requirements of section 11 as to payment of lawful claims and warrants, and to carry out the requirements of section 10 as to schools.

I return the letters and papers which you transmitted.

Respectfully,

R. J. TRACEWELL,

*Controller.*

J. D. T.

OPINION OF ATTORNEY GENERAL BONAPARTE DATED  
AUGUST 19, 1907 (26 O.P. A. G. 340)

DEPARTMENT OF JUSTICE,

*Washington, August 19, 1907.*

The SECRETARY OF THE INTERIOR:

SIR: In your letter of March 22, you submit certain questions raised by the Hon. John F. Brown, principal chief of the Seminole Nation, in regard to the constitutionality of the act of Congress of April 26, 1906 (34 Stat., 137), providing for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, in so far as it mod-

ifies or changes the provisions of the agreements in regard to the allotment, distribution and administration of the property and funds of the Seminole Nation which were negotiated with that nation by the Commission to the Five Civilized Tribes and ratified by the acts of Congress of July 1, 1898 (30 Stat., 567), and June 2, 1900 (31 Stat., 250). Certain other questions raised by Chief Brown as to the extent of your authority under said act are also presented. The several questions referred to are specifically stated by you as follows:

“5. As to the power of the Department to direct that all Seminole warrants issued after January 1, 1907, shall be approved by the United States Indian inspector for the Indian Territory, and paid by the United States Indian agent, Union Agency, instead of being paid by the treasurer of the Seminole Nation.”

The provision of section 10 in regard to the control of the tribal schools and the lands and property pertaining thereto by the Secretary of the Interior, and the use of the tribal funds for the purpose of defraying the necessary expenses of such schools, is likewise a purely governmental and administrative matter, and involves no taking of the property of the nation. In this connection it will be observed that the Secretary is authorized to use “only such portion of said funds of each tribe as may be requisite for the schools of that tribe, not exceeding in any one year for the respective tribes the amount expended for the schoolastic year ending June thirtieth, nineteen hundred and five.”

The provision of section 11 as to the collection of the tribal revenues and the payment of claims against the tribes is also of the same character.

There remains to be considered only the question as to your authority "to direct that all Seminole warrants issued after January 1, 1907, shall be approved by the United States Indian inspector for the Indian Territory and paid by the United States Indian agent, Union Agency, instead of being paid by the treasurer of the nation."

The answer to this question depends upon the extent of your authority over the financial affairs of the Seminole Nation, under the act of April 26, 1906. By section 11 of that act, all the revenues of whatever character accruing to the Seminole tribe, among others, whether before or after the dissolution of the tribal government, is directed to be collected by an officer appointed by you, and you are also directed to pay all lawful claims against the tribes mentioned which may have been contracted after July 1, 1902, or for which warrants have been regularly issued, such payments to be made from any funds in the United States Treasury belonging to said tribes. In addition, as above noted, you are authorized to defray the expenses of the tribal schools out of the funds of said tribes in the treasury of the United States.

In my judgment, the purpose of Congress, in these sections, was to give you exclusive control, within the limitations stated, of the revenues of the Five Civilized Tribes, including the Seminole Nation. It certainly could not have been its purpose, after authorizing you to defray the expenses of the tribal schools, and to pay all lawful claims con-

tracted after July 1, 1902, or for which warrants had been regularly issued, to continue in the tribal government authority to make like or other disbursements, especially in view of the fact that it had turned the collection of all tribal revenues of whatever character over to an officer appointed by you. Being therefore empowered and directed to make all disbursements on behalf of the Seminole Nation that are now authorized, I have no doubt whatever that you may safeguard those disbursements by requiring that all Seminole warrants issued after January 1, 1907, shall be approved by the United States Indian inspector for the Indian Territory and paid by the United States Indian agent, Union Agency, instead of being paid by the Treasurer of the nation.

Respectfully,

CHARLES J. BONAPARTE,  
*Attorney General.*

## GENERAL ACCOUNTING OFFICE REPORT, PAGE 148

## Disbursement Schedule No. 42

Disbursements made by the United States for the benefit of the Seminole Nation of Indians under the appropriation: "Fulfilling Treaties with Florida Indians, or Seminoles".

	Fiscal year		
	1858	1859	1860
Treaty of August 7, 1856 11 Stat. 699			
Article 8: Payment for improvements, and expenses of removal and establishment	\$90,000.00		
Per capita payments	12,500.00	\$12,500.00	\$25,000.00
Support of blacksmiths		407.58	1,391.16
Agricultural aid			278.00
Article 9:			
Removal and subsistence of Indians	32,500.00	2,010.75	37,426.21
Blankets		857.50	581.75
Powder and lead		228.07	1.00
Shoes		247.30	
Tobacco		164.00	9.60
Strouding			6.25
Rifles		807.70	
Agricultural implements and equipment		1,475.63	
Axes		508.00	38.00
Plows		618.75	
Seeds			176.00
Article 10:			
Expenses of delegations	9,315.98		6,215.09
Seminole Nation jointly with Creek Indians:			
Expenses of delegations	27,062.96		
Carried forward	171,378.94	10,914.85	71,131.06

\* For dates of appropriation acts, statute references, and amounts appropriated, see pages 326 and 327.

## GENERAL ACCOUNTING OFFICE REPORT, PAGE 150

Disbursement Schedule No. 48—Continued,

	Fiscal year		
	1861	1863	1869
Treaty of August 7, 1856, 11 Stat. 669:			
Article 8:			
Per capita payments.....	\$25,000.00		
Support of blacksmiths.....	1,162.60		
Article 9:			
Removal and subsistence of Indians.....	1,563.30		
Seeds.....	96.62		
Payment for improvements.....	18,210.00		
Article 21:			
Expenses of surveying.....	1,577.00	\$1,775.49	
Seminole Nation jointly with Creek Indians: Expenses of surveying.....		149.00	
Miscellaneous items:			
Expenses of transporting money for improvements.....	102.00		
Expenses of transporting annuity.....	110.00		
Traveling expenses of agent.....			\$230.50
Provisions.....			95.65
Clothing.....			573.00
Expenses of advertising sale of cattle.....			33.00
Seminole Nation jointly with Wichita Indians: Expenses of transporting goods for Seminole and Wichita Indians.....	1,364.37		
Total.....	\$49,184.28	\$1,924.49	\$932.15

## GENERAL ACCOUNTING OFFICE REPORT, PAGE 151

	Fiscal year		
	1867	1868	1869
Treaty of August 7, 1856, 11 Stat. 669			
Article 8:			
Per capita payments.....	\$12,500.00	\$24,550.00	\$25,099.75
Support of blacksmiths.....	731.06	1,066.90	465.44
Agricultural aid.....	1,605.80	396.20	
Education.....		5,000.00	
Miscellaneous items: Pay and expenses of agent.....	449.53		
Total.....	\$15,284.39	\$28,946.20	\$25,465.19

## GENERAL ACCOUNTING OFFICE REPORT, PAGE 308

## ABSTRACT NO. 10

Abstract of disbursements made by the United States for the benefit of the Seminole Nation of Indians from moneys appropriated pursuant to and in connection with the Treaties of August 7, 1856, 11 Stat. 699, and March 21, 1866, 14 Stat. 755, during the period from July 1, 1907, to June 30, 1930.

Schedule No.	Name of appropriation or fund	Amount disbursed
57	Fulfilling Treaties with Florida Indians, or Seminoles.....	(e) \$71,250.00
58	Interest on Seminoles of Oklahoma Fund.....	(e) 204,780.00
59	Seminole of Oklahoma Fund.....	(e) 570,050.00
	Total.....	(e) 846,080.00

(e) See page 24, Item (p).

(e) See page 307, Item (b).

(e) See page 306, item (c).

(e) See page 305, Item (b); also page 5, Item (j).

## GENERAL ACCOUNTING OFFICE REPORT, PAGE 309

## DISBURSEMENT SCHEDULE NO. 57

Disbursements made by the United States for the benefit of the Seminole Nation of Indians under the appropriation:

*Fulfilling Treaties with Florida Indians, or Seminoles\**

	Fiscal year		
	1908	1909	1910
Administrative expenses, Seminole National Government.....	\$42,747.00	\$11,002.96	
Per capita payments.....			\$15,200.00
Total.....	42,747.00	11,002.96	15,200.00

\* For dates of appropriation acts, statute references, and amounts appropriated, see pages 326 to 329.

## GENERAL ACCOUNTING OFFICE REPORT, PAGE 310

## Disbursement Schedule No. 57—Continued

	Fiscal year		Total
	1919	1921	
Administrative expenses, Seminole National Government			\$33,749.96
Per capita payments	\$2,100.00	\$200.04	17,500.04
Total	2,100.00	200.04	71,250.00

## BREAK-DOWN OF GRATUITY EXPENDITURES MADE ON BEHALF OF THE SEMINOLE TRIBE OF INDIANS FOR EDUCATIONAL PURPOSES AS SET FORTH IN FINDING 18

Purpose	Report G. A. O., page	Amount	Total
Aid of common schools	106	\$2,569.00	\$2,569.00
Board and tuition	28	3,275.47	
	29	7,612.43	10,888.42
Books, stationery, etc.	88	217.27	
	92	.76	
	105	4,675.47	4,891.50
Clothing	106	11,182.77	11,182.77
Erection and care of school buildings	91	1,316.70	
	105	2,491.50	
	109	572.00	
	114	5.65	4,385.85
Feed and care of livestock	106	621.50	
	114	3.69	
Fuel, light, and water	114	1.15	625.19
Furniture and equipment	29	204.86	
	88	598.00	
	91	125.00	
	105	2,235.76	
	109	1,930.24	
	114	27.75	5,121.61
Maintenance of Cherokee Orphan Training School	30	359,978.00	
	31	38,518.86	
	32	5,634.87	
	33	5,703.00	

## BREAK-DOWN OF GRATUITY EXPENDITURES, ETC.—Continued

Purpose	Report G. A. O., page	Amount	Total
Maintenance of Cherokee Orphan Training School—Continued:			
	34	\$61,450.96	
	35	25,002.24	
	36	1,000.00	
	51	2.96	
	83	21,297.93	
	88	1,126,449.76	
	91	5,541.49	
	93	736.96	
	94	13,385.98	
	95	295.10	
	110	436.85	
	111	4,852.23	
	114	10.00	
	151	23,224.82	
	154	4.18	
Medical attention			\$1,693,325.90
	105	2.60	
	154	83.45	
Miscellaneous school expenses			86.05
	105	63,589.87	
	109	3,369.12	
	114	568.47	
Pay of miscellaneous school employees			67,527.45
	28	1,763.31	
	39	1,380.00	
	83	7,075.73	
	88	589.48	
	105	213,552.53	
	109	19,017.48	
	114	3,022.85	
Pay of superintendents and teachers			246,401.38
	29	724.00	
	83	1,645.34	
	105	106,857.82	
	109	16,092.00	
	114	306.61	
Provisions			123,625.77
School farm			1,231.78
Transportation, etc., of supplies			15.64
Travelling expenses			5,459.53
	88	64.73	
	92	213.21	
			277.94
			\$2,179,846.86
			\$2,179,846.86

TABLE OF GENERAL AND LOCAL APPROPRIATIONS, BY  
 CLASSES AND PURPOSES—SCHMECKEBIER, OFFICE OF  
 INDIAN AFFAIRS. (THE BROOKINGS INSTITUTION,  
 1927), PP. 518–519

TABLE 3.—*General and Local Appropriations, by Classes and Purposes*

Classes and purposes	Fiscal years			
	1903	1913	1923	1928
<b>GENERAL APPROPRIATIONS—</b>				
<b>GRATUITY</b>				
Salaries, Bureau of Indian Affairs	\$140,520.00	\$231,710.00	\$306,150.00	\$356,000.00
Increase of compensation, Indian Service			1,061,200.00	
Classification of files		5,000.00		
Compilation of laws	3,000.00			
Inspectors	20,000.00		24,000.00	16,000.00
Traveling expenses of inspectors	12,800.00			
General expenses	45,000.00	125,000.00	115,000.00	
Expenses of Board of Indian Commissioners	4,000.00	4,000.00	9,500.00	11,000.00
Support of schools	1,240,000.00	1,420,000.00	1,675,000.00	2,429,700.00
Pay superintendent of schools	3,000.00			
Traveling expenses of superintendent of schools	1,500.00			
School transportation	44,000.00	82,000.00	85,000.00	90,000.00
School buildings	230,000.00			225,000.00
School and agency buildings		480,000.00	380,000.00	
Agency buildings	31,500.00			150,000.00
Relief of distress and prevention of diseases		90,000.00	51,500.00	344,500.00
Emergency relief of destitution			100,000.00	
Sanitary investigations		10,000.00		
Pure vaccine matter and vaccination	5,000.00			
Suppressing liquor traffic		75,000.00	30,000.00	22,000.00
Transporting supplies	225,000.00			
Telegraphing and purchase of supplies	65,000.00			
Warehouse, Omaha	10,000.00			
Warehouse, St. Louis	10,000.00			
Purchase and transportation of supplies		447,784.86	490,000.00	550,000.00
Telegraphing and telephoning		9,000.00	6,800.00	
Traveling expenses, telegraphing and telephoning				16,000.00
Surveying and allotting	72,000.00			
Irrigation	150,000.00	335,700.00		
Suppressing contagious diseases among live stock			15,000.00	30,000.00

TABLE 3.—*General and Local Appropriations, by Classes and Purposes—Continued*

Classes and purposes	Fiscal years			
	1903	1913	1923	1928
<b>GENERAL APPROPRIATIONS—GRATUITY—continued</b>				
Employment of practical farmers	\$75,000.00			
Employment of matrons	15,000.00			
Industrial work <sup>1</sup> and care of timber		\$400,000.00	\$375,000.00	\$315,000.00
Support and civilization		1,200.00		900,000.00
Pay of Interpreters	5,000.00			
Pay of Indian Police	135,000.00	200,000.00	140,000.00	160,000.00
Pay of Judges, Indian Police Court costs, suits reallocated lands	12,540.00	10,000.00	6,500.00	15,000.00
Total	\$2,574,660.00	\$3,928,394.86	\$4,840,650.00	\$5,630,200.00

